

DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT

COUNTY OF MAUI

Adoption of Chapter 15-107
Rules for Flexible Design Standards

1. Chapter 15-107, entitled "Rules for Flexible Design Standards", is adopted to read as follows:

"TITLE MC-15

DEPARTMENT OF PUBLIC WORKS
AND ENVIRONMENTAL MANAGEMENT

SUBTITLE 01

DIRECTOR OF THE DEPARTMENT
OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT

CHAPTER 107

RULES FOR FLEXIBLE DESIGN STANDARDS

Subchapter 1 General Provisions

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SUBCHAPTER 1

GENERAL PROVISIONS

§15-107-1 Title. These rules shall be known as the "Rules for Flexible Design Standards." [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030)

§15-107-2 Purpose. These rules establish a process for approving flexible design standards in certain developments when deviation from normal subdivision standards is appropriate to encourage and implement smart growth principles. [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1))

§15-107-3 Definitions. For purposes of these rules, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined as follows:

"AASHTO standards" means the most recent policies, guidelines, recommendations, or standards of the American Association of State Highway and Transportation Officials.

"ADA requirements" means requirements contained in, or required by, the Americans with Disabilities Act, public law 101-336.

"Approved development" means a plan and program approved pursuant to title 19, Maui County Code, or by the Maui redevelopment agency.

"Department" means the department of public works and environmental management.

"Director" means the director of public works and environmental management or the director's designated representative.

"MUTCD" means the most recent edition of the manual on uniform traffic control devices.

"Private driveway" means an area, construction, or facility primarily used by motor vehicles for purposes of ingress or egress that does not have a defined right-of-way.

"Private street" means a street right-of-way not owned by the County of Maui and not intended to be conveyed to the County of Maui.

"Public street" means a street right-of-way owned or maintained by any federal, state, or county agency or a street designed and to be constructed in accordance with requirements of title 18, Maui County Code, for conveyance to the County of Maui.

"Subdivider" means any person, firm, corporation, partnership, association, trust or other legal entity, or a combination of any thereof, who or which cause land to be divided into a subdivision for himself, itself, or for others. [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1))

§15-107-4 General requirements. (a) The director may approve exceptions from the department's standard design and construction requirements only for approved developments.

(b) The County shall not accept or receive by dedication any improvements for approved developments that utilize the exceptions provided by these rules.

(c) The County shall not accept or receive by dedication any easement for underground improvements unless open areas are provided. Said open areas shall be free of any structures and shall be planted with grass only. The grass shall be maintained by watering and mowing by a designated private entity. The dedicated easement shall include open areas that are a minimum of ten feet wide on each side of the improvement. If the director determines that vehicular access to the improvements cannot be made by using the open areas, then additional vehicular access easements shall be provided.

(d) The subdivider shall agree to defend, indemnify and hold harmless the County, its officers and agents, from all claims, demand, suits, actions or proceedings of every name, character and description which may be brought against the County for or on account of any injuries or damages to any person or property as a consequence of the development being constructed in accordance with any flexible design standard and these rules.

(e) The subdivider shall agree to the following:

(1) Any conditions imposed in connection with any approved exceptions;

- (2) An acknowledgment of the restrictions and requirements of subsections (b) and (c) of this section; and
- (3) The indemnification required under subsection (d) of this section. The agreement shall be executed by the subdivider in a form approved by the department of the corporation counsel and recorded with the bureau of conveyances or land court of the State of Hawaii. The agreement shall run with the land and shall bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and any other person who claims an interest in such property. The agreement shall be recorded within six months of the approval of any exceptions, and a copy of the recorded agreement shall be filed with the director. If the agreement is not recorded within the six-month period, the subdivider's application for exception(s) shall be deemed abandoned and the approval of exception(s) shall be void. [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1))

§15-107-5 Review criteria. Flexible design standards may be approved by the director in accordance with the following requirements:

(a) Private infrastructure, including driveways and streets, for an approved development may be built based on the following criteria:

- (1) Driveways and roadways shall conform to the Hawaii statewide uniform design manual for streets and highways and AASHTO standards.
 - (A) If a private driveway or roadway serves more than three units or is longer than one hundred fifty feet, the minimum pavement width of the driveway or roadway shall be at least twenty feet wide.
 - (B) The minimum radius for the edge of pavement shall be based upon the turning radius of the largest design of vehicle expected to serve the approved development.
 - (C) Driveways and streets to be used for fire

protection shall have an all-weather pavement surface and shall be designed with an adequate pavement width to allow access by fire apparatus. All cul-de-sac roads in excess of one hundred fifty feet in length must have adequate turnaround area for fire apparatus.

- (D) Signage and pavement markings for driveways and streets shall be installed as necessary for pedestrian and vehicular traffic safety in accordance with MUTCD. Driveways and roadways shall be clearly identified by signage as being privately owned and maintained.
- (2) Private improvements, including paved areas, shall be maintained by the subdivider. The subdivider shall be responsible for informing future owners of the affected properties that county agencies are not responsible for maintenance or repair work of the private improvements or for any other services within the limits of the private development. If the director determines that the private improvements are not being adequately maintained, public services may be withheld from the affected properties until proper maintenance of the improvements has been provided.
- (3) A drainage swale in the center of private driveways and roadways is allowed provided that at least eight feet of unflooded lane width is provided on each side of the swale.
- (b) Waterlines to be dedicated to the department of water supply shall be approved by the department of water supply. Waterlines to be privately owned and maintained shall comply with the fire and plumbing codes. If requirements in the fire and plumbing codes conflict, the requirement that provides the higher level of safety shall prevail.
- (c) Privately owned and maintained storm drainage systems may be constructed based on an engineering design approved by the director.
- (d) Sidewalks and other walkways within approved developments shall encourage and facilitate pedestrian circulation.

- (1) Sidewalks, including wheelchair ramps, shall comply with ADA requirements. The licensed engineer who prepared the construction plans shall submit a signed statement in a form approved by the director that the sidewalks were designed and constructed in compliance with ADA requirements.
- (2) If the approved development's sidewalk network has not been previously determined, a sidewalk shall be provided on one side of each road in the approved development. However, the sidewalk requirement may be waived in the agricultural and rural districts if an alternative walkway is provided for each dwelling unit in the approved development.
- (3) Other walkways may be required to provide access to and from parking areas, recreation and laundry facilities, or public streets or bus stops.
- (4) Walkways shall be constructed of an all-weather surface such as asphalt, concrete, or grassblock.
- (e) Additional public-use parking stalls shall be provided when on-street parking is inadequate. An inadequate parking condition exists when there is less than one on-street parking stall for every two allowable dwelling units within the approved development. [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1))

§15-107-6 Approval process. (a) The subdivider shall apply for exceptions on a form provided by the director and shall submit the completed form as follows:

- (1) For subdivision applications that were submitted prior to the effective date of these rules, the subdivider shall submit the completed form prior to submission of any construction plans or the final plat, whichever approval is required next. A copy of the recorded agreement required under section 15-107-4(e) shall be submitted with the construction plans or final plat.
- (2) For subdivision applications submitted after the effective date of these rules, the

subdivider shall obtain the director's approval of requested exceptions prior to submittal of the subdivision application for preliminary approval. If any of the requested exceptions are approved, a copy of the recorded agreement required under section 15-107-4(e) shall be submitted with the subdivision application.

(b) The director may consult with state and/or county agencies and may consider comments from those reviewing agencies prior to approving any exception(s).

(c) The director shall make a decision on the requested exception(s) within forty-five days after receiving final comments from any state and/or county agency that is consulted.

(d) The director's decision may include approval of all or some of the exceptions as submitted, approval with conditions, or rejection of all or some of the requested exceptions.

(e) The subdivider may resubmit a request for approval of an exception that has been rejected by the director. Resubmission of a request shall not be accepted within thirty days of the director's rejection. [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1))

§15-107-7 Appeals. Any person aggrieved by a decision of the director hereunder may appeal to the board of variances and appeals pursuant to chapter 18.36, Maui County Code." [Eff 3/25/05] (Auth: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1)) (Imp: HRS §91-2; MCC §18.32.030; Charter §8-5.3(1))

2. Chapter 15-107, Rules for Flexible Design Standards shall take effect ten days after filing with the Office of the County Clerk.

ADOPTED THIS 25th day of February, 2005.

DEPARTMENT OF PUBLIC WORKS AND
ENVIRONMENTAL MANAGEMENT

By Milton M. Arakawa
MILTON M. ARAKAWA
Director

Alan M. Arakawa
ALAN M. ARAKAWA
Mayor, County of Maui

Approved this _____ day of
MAR 10 2005, 20____.

APPROVED AS TO FORM
AND LEGALITY:

Cindy Y. Young
CINDY Y. YOUNG
Deputy Corporation Counsel
County of Maui
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Received this 15th day of
March, 2005.

Roy T. Hiraga
ROY T. HIRAGA
County Clerk, County of Maui

CERTIFICATION

I, MILTON M. ARAKAWA, Director, Department of Public Works and Environmental Management, County of Maui, do hereby certify:

1. That the foregoing is a full, true and correct copy of the rules drafted in Ramseyer format, pursuant to the requirements of Section 91-4.1, Hawaii Revised Statutes, which were adopted by the Director of Public Works and Environmental Management, on the 25th day of February, 2005, following a public hearing that closed on January 14, 2005, and which were filed with the Office of the County Clerk.

2. That the notice of public hearing on the foregoing Rules, which notice included the substance of such Rules, was published in The Maui News on December 12, 2004.



MILTON M. ARAKAWA
Director of Public Works and
Environmental Management